

Richard A. Lee, OSB No. 842719  
Email: lee@bodyfeltmount.com  
Vicki M. Smith, OSB No. 015110  
Email: smith@bodyfeltmount.com  
BODYFELT MOUNT LLP  
319 SW Washington St., Suite 1200  
Portland, Oregon 97204  
Telephone: (503) 243-1022  
Facsimile: (503) 243-2019

Of Attorneys for Defendant Allstate Insurance Company

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

ARROWOOD INDEMNITY COMPANY, a  
Delaware Corporation, formerly known as  
ROYAL INDEMNITY COMPANY, as  
successor in interest to ROYAL GLOBE  
INSURANCE COMPANY,

Plaintiff,

v.

PACIFIC INDEMNITY COMPANY, a  
Wisconsin corporation, as successor to all  
of the liabilities of NORTHWESTERN  
PACIFIC INDEMNITY COMPANY, an  
Oregon corporation, ALLSTATE  
INSURANCE CORPORATION, an Illinois  
corporation, HARTFORD ACCIDENT AND  
INDEMNITY COMPANY, a Connecticut  
corporation, FARMERS INSURANCE  
COMPANY OF OREGON, an Oregon  
corporation, EMPLOYERS INSURANCE  
COMPANY OF WAUSAU, a Wisconsin  
corporation, and LUMBERMENS MUTUAL  
GROUP, an Illinois corporation, as  
successor to all of the liabilities of KEMPER  
and KEMPER INSURANCE COMPANIES,  
Illinois corporations;

Defendants.

Case No.

**NOTICE OF REMOVAL OF CIVIL  
ACTION**

(28 U.S.C. §§ 1332(a) and 1441)  
(Diversity Jurisdiction)

DEMAND FOR JURY TRIAL

**TO: THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON, PORTLAND DIVISION:**

**PLEASE TAKE NOTICE THAT** Defendant Allstate Insurance Company, incorrectly sued as Allstate Insurance Corporation (“Allstate”), respectfully removes this action from the Multnomah County Circuit Court of the State of Oregon, where it is currently pending, to the United States District Court for the District of Oregon, Portland Division. This Notice is submitted pursuant to 28 U.S.C. §§ 1332(a), 1441 and 1446.

As grounds for removal, Allstate states as follows:

**I. TIMELINESS OF REMOVAL**

1. On or about December 17, 2018, Plaintiff Arrowood Indemnity Company, formerly known as Royal Indemnity Company, and as successor in interest to Royal Globe Insurance Company (“Arrowood”) filed a complaint against Allstate and other insurers in the Multnomah County Circuit Court of the State of Oregon. A copy of the complaint is attached as Exhibit A to this Notice. In the complaint, Arrowood seeks a declaration that the “Defendant Insurers” (all defendants named herein) “owe contribution to Arrowood for their just and equitable share of the common liability relating to the defense of the State of Oregon (‘the State’), by and through its Department of Transportation (‘ODOT’) against claims, demands, suits and proceedings asserted by the United States Environmental Protection Agency (‘EPA’), the Portland Harbor Natural Resource Trustee Council, and others for response costs and damages arising from alleged groundwater, surface water, soil, and sediment contamination in connection with the Portland Harbor Superfund matters.”

2. Allstate has not yet been served in this matter but became aware the action was filed on December 18, 2018.

3. To the best of Allstate's knowledge, no other defendant has been served as of the filing of this Notice of Removal.

4. This Notice of Removal is timely filed under 28 U.S.C. § 1446(b) because fewer than thirty (30) days have passed since Allstate received "through service or otherwise ... a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based." See 28 U.S.C. § 1446(b).

## **II. JURISDICTIONAL BASIS FOR REMOVAL**

5. Allstate seeks to remove this case to federal court on the basis of complete diversity of citizenship between the parties pursuant to 28 U.S.C. § 1332.

6. For purposes of diversity jurisdiction, a corporation is "deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business ...." 28 U.S.C. § 1332(c)(1).

7. Plaintiff Arrowood is an insurance company incorporated in Delaware with its principal place of business in North Carolina and was formerly known as Royal Indemnity Company, which is the successor in interest to Royal Globe Insurance Company.

8. Defendant Allstate is an insurance company incorporated under the laws of the State of Illinois with its principal place of business in Illinois.

9. Defendant Northwestern Pacific Indemnity Company ("NWPI") was incorporated under the laws of the State of Oregon on February 14, 1963. The original Certificate of Authority was issued by the Oregon Insurance Division on March 1, 1963. NWPI was a member of The Chubb Corporation holding company system and was a wholly owned subsidiary of PIC, a property and casualty insurer domiciled in Wisconsin. As a result of a *Transfer and Assumption Agreement* between PIC and Cottage Insurance Holdings, Inc., PIC accepted and assumed all liabilities of any kind of NWPI, including all

liabilities relating to or arising from policies issued prior to February 12, 2013. Upon information and belief, Federal Insurance Company, an Indiana corporation, in turn owns PIC. The Chubb Corporation, a New Jersey corporation, owns Federal Insurance Company. Upon information and belief, both Federal Insurance Company and The Chubb Corporation maintain their principal place of business in New Jersey.

10. Defendant Employers Insurance Company of Wausau (“Wausau”) is an insurance company incorporated in, and which maintains its principal place of business in, Wisconsin.

11. Defendant Hartford Accident and Indemnity Company (“Hartford”) is an insurance company incorporated in, and which maintains its principal place of business in, Connecticut.

12. Defendant Lumbermens Mutual Group (“Lumbermens”) is an insurance company incorporated in, and which maintains its principal place of business in, Illinois. The company and its affiliates formerly operated under the trade names “Kemper” and “Kemper Insurance Companies,” which were insurance companies incorporated in, and with their principal places of business in, Illinois.

13. Although Farmers Insurance Company of Oregon (“Farmers”) is an insurance company purportedly incorporated in, and which purportedly maintains its principal place of business in, Oregon, Farmers has not yet been served and removal is appropriate. See 28 U.S.C. § 1446(b)(2).

14. As no defendant is a citizen of North Carolina, there is complete diversity between the Plaintiff and the Defendants. Defendants are entitled to have this cause removed from the Multnomah County Circuit Court of the State of Oregon to the United States District Court for the District of Oregon, Portland Division, the federal district where

the state suit is pending. Therefore, jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332.

### **III. THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED**

15. Plaintiff is seeking a declaratory judgment that the Defendants “owe their fair, equitable and respective share of contribution, along with Arrowood, toward, toward [sic] the defense of ODOT in connection with the investigation and remediation expenses or any other claims associated with the Portland Harbor Claims.”

16. The complaint does not demand any specific sum. Public filings regarding the Portland Harbor Superfund site indicate that the amount at issue far exceeds \$75,000. Because Plaintiff is diverse from Defendants and the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000, this Court has original jurisdiction over the claims pursuant to 28 U.S.C. § 1332.

### **IV. PAPERS FROM REMOVED ACTION**

16. Copies of all pleadings in the action pending in Multnomah County Circuit Court are attached hereto as Exhibit A.

### **V. NOTICE TO PLAINTIFF**

17. Defendants have served written notice of this filing on counsel for Plaintiffs as required by 28 U.S.C. § 1446(d).

### **VI. NOTICE TO STATE COURT WHERE REMOVED ACTION WAS PENDING**

18. After the filing of this Notice of Removal, Allstate will transmit a copy of this Notice of Removal to the Clerk of the Multnomah County Circuit Court of the State of Oregon as required by 28 U.S.C. § 1446(d).

### **VII. NON-WAIVER OF DEFENSES**

19. By removing this action from the Multnomah County Circuit Court of the State of Oregon, Allstate does not waive any defenses available to it or admit any of the

allegations in Plaintiff's complaint. Further, Allstate reserves the right to amend or supplement this Notice of Removal.

WHEREFORE, Defendant Allstate respectfully removes the above-captioned action from the Multnomah County Circuit Court of the State of Oregon to the United States District Court for the District of Oregon, Portland Division.

DATED this 18<sup>th</sup> day of December, 2018.

**BODYFELT MOUNT LLP**

BY: s/ Richard A. Lee

Richard A. Lee, OSB No. 842719

Email: lee@bodyfeltmount.com

Vicki M. Smith, OSB No. 015110

Email: smith@bodyfeltmount.com

Phone: (503) 243-1022

Fax: (503) 243-2019

Of Attorneys for Defendant Allstate Insurance  
Company

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing **NOTICE OF REMOVAL OF CIVIL ACTION** on the following attorneys on the date noted below via the following method:

Nicholas L. Dazer  
Nicholas Dazer PC  
121 SW Morrison St., Suite 475  
Portland, OR 97204  
Fax: (503) 953-1039  
Email: nick@dazerlaw.com

*Of Attorneys for Plaintiff*

Method: ☐ US Mail, postage prepaid  
☐ Facsimile  
☐ Hand Delivery  
☒ CM/ECF Electronic Service

Dated this 18<sup>th</sup> day of December, 2018.

BY: s/ Richard A. Lee

Richard A. Lee, OSB No. 842719  
Email: lee@bodyfeltmount.com  
Vicki M. Smith, OSB No. 015110  
Email: smith@bodyfeltmount.com  
Phone: (503) 243-1022  
Fax: (503) 243-2019

Of Attorneys for Defendant Allstate Insurance  
Company